



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION  
[REDACTED]  
MOP/172950

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 21, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 12, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's appeal is timely to contest a Medicaid overpayment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was sent a BadgerCare+ overpayment notice dated January 8, 2016. It informed Petitioner that he had been overissued BadgerCare+ benefits in the amount of \$1339.46 for the period from September 1, 2014 through June 30, 2015. The reason for the alleged overissuance was that Petitioner did not report income in excess of reporting limits.
3. The overpayment notice referred to at Finding # 2 was sent to Petitioner at the above address. It does contain appeal instructions noting an appeal deadline of February 22, 2016.
4. Petitioner filed this hearing request with the Division of Hearings and Appeals on March 21, 2016.

**DISCUSSION**

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. By law a timely hearing request concerning Medical Assistance matters must be filed within 45 days of the notice of the agency decision. §49.45(5)(a), *Wis. Stats.* The Division of Hearings and Appeals does not have authority to expand this time limit were a notice has been issued. This hearing request was filed about a month past the February 22, 2016 deadline for appealing the January 8, 2016 overpayment notice. I must, therefore, conclude that the appeal is untimely and the Division of Hearings and Appeals no longer has legal authority to decide the underlying overpayment.

**CONCLUSIONS OF LAW**

That this appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

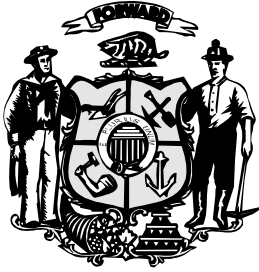
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 3rd day of June, 2016

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on June 3, 2016.

Milwaukee Enrollment Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability